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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,083	03/26/2004	Laura Bridge	160-071	8218
34845	7590	01/23/2009	EXAMINER	
Anderson Gorecki & Manaras LLP			AJAYL JOEL	
33 NAGOG PARK			ART UNIT	PAPER NUMBER
ACTON, MA 01720			2617	
NOTIFICATION DATE		DELIVERY MODE		
01/23/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/810,083	<b>Applicant(s)</b> BRIDGE ET AL.
	<b>Examiner</b> JOEL AJAYI	<b>Art Unit</b> 2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(o).

#### Status

- 1) Responsive to communication(s) filed on 08 October 2008.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,2 and 4-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,2, 4-17 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                          | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/DP/0656)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 08, 2008 has been entered.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 2, 4-17 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claims 1, 2, 4, 5, 7-9** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Eran et al. (U.S. Patent Application Number: 2004/0063455)** in view of **Gray et al. (U.S. Patent Number: 7,295,524)**.

Consider **claim 1**; Eran discloses a method for monitoring a wireless network comprised of a plurality of access points coupled to a plurality of stations (paragraph 36, lines 4 and 5), the method comprising the steps of:

Converting a selected access point into a probe device (this is accomplished by sending a probe request to the access point) (paragraph 47, lines 1-4); performing probe operations by the probe device (paragraph 47, lines 4-12; paragraph 48, lines 1-7); and forwarding the information retrieved from the probe operations to a management device (paragraph 47, lines 4-7).

Except: disassociating all stations coupled to the selected access point from the selected access point.

In an analogous art, Gray discloses disassociating all stations coupled to the selected access point from the selected access point (during a scan/probe/search) (column 7, lines 60-62).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Eran by including disassociating stations coupled to the

selected access point from the selected access point, as taught by Gray, for the purpose of facilitating monitoring and management tasks associated with computer networks.

Consider **claim 2**; Eran discloses converting the selected access point includes the step of forwarding a Probe command (request) to the selected access point (this is accomplished by sending a probe request to the access point) (paragraph 47, lines 1-4).

Consider **claim 4**; Gray discloses forwarding a Reset command to each station coupled to the selected access point (column 7, lines 60-62; column 8, lines 5-8).

Consider **claim 5**; Gray discloses failing to respond to communications from each station coupled to the selected access point (column 7, lines 60-62).

Consider **claim 7**; Eran discloses that the selected access point is automatically selected in response to the detection of a network problem (paragraph 8, lines 10-23).

Consider **claim 8**; Eran discloses that the selected access point is automatically selected in response to a periodic scan of each of the plurality of access points in the network (paragraph 58, lines 1-4).

Consider **claim 9**; Eran discloses the step of converting the probe device into an access point after forwarding information to the management device (paragraph 8, lines 10-14; paragraph 49, lines 1-6).

**Claims 6, 10** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Eran et al. (U.S. Patent Application Number: 2004/0063455)** in view of **Gray et al. (U.S. Patent Number: 7,295,524)**, further in view of **Barber et al. (U.S. Patent Application Number: 2004/0076134)**.

Consider **claim 6**; Eran and Gray disclose the claimed invention except: the selected access point is selected in response to its proximity to an unauthorized access point.

In an analogous art, Barber discloses that the selected access point is selected in response to its proximity to an unauthorized access point (neighboring wireless network) (paragraph 72, lines 3-6; paragraph 77).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Eran and Gray by including an unauthorized access point, as taught by Barber, for the purpose of providing greater control over wireless networks.

Consider **claim 10**; Barber discloses that the selected access point includes a plurality of radio frequency channels, and wherein the selected access point continues to serve as an access point for a first subset of the plurality of channels and serve as a probe device for a second subset of the plurality of channels (the access point can perform this function simultaneously) (paragraph 72, lines 3-6).

**Claims 11-14, 16** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Eran et al. (U.S. Patent Application Number: 2004/0063455)** in view of **Gray et al. (U.S. Patent Number: 7,295,524)**, further in view of **Kinnunen et al. (U.S. Patent Number: 6,856,802)**.

Consider **claim 11**; Eran discloses a device comprising:

Means for operating as an access device to permit a plurality of wirelessly coupled devices to communicate with a wired network (paragraph 37, lines 1-3), the access device and the plurality of wirelessly coupled devices forming a wireless network (paragraph 36, lines 1-5);

and means for selectively operating as either the access device (paragraph 36, lines 1-5) or the probe device in response to receipt of a command at the device (paragraph 47).

Except: disassociating all stations coupled to the selected access point from the selected access point.

In an analogous art, Gray discloses disassociating all stations coupled to the selected access point from the selected access point (during a scan/probe/search) (column 7, lines 60-62).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Eran by including disassociating stations coupled to the selected access point from the selected access point, as taught by Gray, for the purpose of facilitating monitoring and management tasks associated with computer networks.

Eran and Gray fail to disclose scanning the plurality of wirelessly coupled devices to obtain operating statistics for the wireless network.

In an analogous art, Kinnunen discloses a means for operating as a probe device for scanning the plurality of wirelessly coupled devices to obtain operating statistics for the wireless network (column 5, lines 35-44).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Eran and Gray by including statistics, as taught by Kinnunen, for the purpose of measuring and optimizing the quality of data transmission in a digital cellular radio system.

Consider **claim 12**; Eran discloses that the command is a Probe command forwarded by a network manager to the device (paragraph 49, lines 1-6).

Consider **claim 13**; Eran discloses that the command is a Probe command received a command line interface on the device (paragraph 44, lines 1-8).

Consider **claim 14**; Eran discloses that the Probe command is automatically generated by the device in response to an event (the identification of the access points can be in the form of a test; the access point automatically measures the signal, a form of testing , before sending the request to the manager) (paragraph 47, lines 1-6).

Consider **claim 16**; Eran discloses that the event is the detection of network performance degradation in the wireless network (paragraph 8, lines 10-23).

**Claims 15 and 17** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Eran et al.** (U.S. Patent Application Number: 2004/0063455) in view of **Gray et al.** (U.S. Patent Number: 7,295,524), further in view of **Kinnunen et al.** (U.S. Patent Number: 6,856,802), and further in view of **Barber et al.** (U.S. Patent Application Number: 2004/0076134).

Consider **claim 15**; Eran, Gray, and Kinnunen disclose the claimed invention except: the event is the detection of an unauthorized access point in the network.

In an analogous art, Barber discloses that the event is the detection of an unauthorized access point in the network (neighboring wireless network) (paragraph 72, lines 3-6; paragraph 77).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Eran, Gray, and Kinnunen by including an unauthorized access point, as taught by Barber, for the purpose of providing greater control over wireless networks.

Consider claim 17; Barber discloses that the means for operating as an access point operates over a range or channels, and wherein the means for operating as a probe device operates over the range of channels, and wherein the device operates as an access device over a first subset of the range of channels and operates as a probe device over a second subset of the range of channels (the access point can perform this function simultaneously) (paragraph 72, lines 3-6).

***Conclusion***

Any response to this Office Action should be **faxed to (571) 273-8300 or mailed to:**

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Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Joel Ajayi whose telephone number is (571) 270-1091. The Examiner can normally be reached on Monday-Friday from 7:30am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Lester Kincaid can be reached on (571) 272-7922. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

*Joel Ajayi*

/Lester Kincaid/  
Supervisory Patent Examiner, Art Unit 2617